



UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Norfolk Division

ANGELO CORNELIOUS CASON, JR., #369714,

Petitioner,

v.

ACTION NO. 2:07cv610

GENE M. JOHNSON, Director of the  
Virginia Department of Corrections,

Respondent.

FINAL ORDER

This matter was initiated by petition for a writ of habeas corpus under 28 U.S.C. § 2254. The petition alleges the violation of federal rights pertaining to Petitioner's conviction on March 15, 2006, in the Circuit Court for the City of Virginia Beach, Virginia, for one (1) count of simple assault or assault and battery of a law enforcement officer. Petitioner was sentenced to serve (4) years in the Virginia penal system.

The matter was referred to a United States Magistrate Judge pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C), Rule 72(b) of the Federal Rules of Civil Procedure and Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia for report and recommendation. The report of the Magistrate Judge was filed on February 27, 2008, recommending dismissal of the petition. By copy of the report, each party was advised of his right to file written objections to the findings and recommendations made by the Magistrate Judge. On March 5, 2008,

the Court received Petitioner's Motion for Petition to Forward in U.S. [sic] District Court. The Court construed this document as Petitioner's objections to the Magistrate Judge's report and recommendation. This document was also construed to contain a motion for discovery and a motion for appointment of counsel. The Court received no response from Respondent.

The Court, having reviewed the record and examined the objections filed by Petitioner to the Magistrate Judge's report, and having made de novo findings with respect to the portions objected to,<sup>1</sup> does hereby ADOPT AND APPROVE the findings and recommendations set forth in the report of the United States Magistrate Judge filed on February 27, 2008, and it is, therefore, ORDERED that the petition be DENIED AND DISMISSED WITHOUT PREJUDICE to Petitioner's right to proceed properly in the Virginia state courts. It is further ORDERED that judgment be entered in favor of Respondent.

Petitioner's motion for discovery and motion to appoint counsel are DISMISSED AS MOOT as the Court has dismissed the petition without prejudice.

Petitioner may appeal from the judgment entered pursuant to this final order by filing a written notice of appeal with the Clerk of this Court, United States Courthouse, 600 Granby Street,

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<sup>1</sup>The Court notes that Petitioner failed to address the essence of the Magistrate Judge's findings, namely, that Petitioner has never properly exhausted his claims in the Supreme Court of Virginia and that he still has sufficient time within which to do so.

Norfolk, Virginia 23510, within thirty (30) days from the date of entry of such judgment. Petitioner has failed to demonstrate "a substantial showing of the denial of a constitutional right." Therefore, the Court, pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure, declines to issue a certificate of appealability. See Miller-El v. Cockrell, 537 U.S. 322, 335-36 (2003).

The Clerk shall mail a copy of this Final Order to Petitioner and to counsel of record for Respondent.

  
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UNITED STATES DISTRICT JUDGE

Norfolk, Virginia

March 26 , 2008

  
March  
03-26-08  
Walter Kelley